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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,960	01/26/2004	David F. McNary	112,811	7875
21002	7590	10/04/2005	EXAMINER	
WILLIAM NITKIN 1320 CENTRE STREET SUITE 300 NEWTON, MA 02459			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/763,960	Applicant(s) MCNARY, DAVID F.	
	Examiner Mike Chambers	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7, 8, 15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-3, 15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter (4809988). Hunter discloses

a plurality of vertically disposed puck deflector members (18) arrayed in a series, each of said puck deflector members having a first end and a second end, said plurality of puck deflector members disposed in front of a hockey goal for deflection of hockey pucks shot through said plurality of vertically disposed puck deflector members (fig 1,3). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112). The intended use limitations included in this claim are method of use limitations which do not constitute limitations in the apparatus claims since the apparatus claims are directed toward structural limitations.

As to Claim 2: Hunter discloses a framework having a top member (19), said top member having a first end and a second end, and a length; and said plurality of puck deflector members (20,18) spaced apart from one another, said first ends of each of said puck deflector members attached to said top member and hanging downward therefrom toward said ice, said plurality of puck deflector members causing a puck striking one of said

puck deflector members at a first direction of movement to be deflected and to continue traveling toward the goal at a second direction of movement (fig 3).

As to Claim 3: Hunter discloses a first and second upright members (54), each of said first and second upright members having a first end and a second end and a length, said first ends of said first and second upright member supporting, respectively, said first end and said second end of said top member and first and second support members, said first and second support members having receipt means for receiving, respectively, said second end of said first upright member and said second end of said second upright member (fig 3).

As to Claim 15: Hunter discloses a connection member for the second ends of the puck deflectors (fig 1a , un-numbered connector at bottom of device).

As to Claim 17: Hunter discloses a top member that is curved (fig 7).

Also,

Claims 1-3, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Scully (5348291). Scully discloses

a plurality of vertically disposed puck deflector members (51) arrayed in a series, each of said puck deflector members having a first end and a second end, said plurality of puck deflector members disposed in front of a hockey goal for deflection of hockey pucks shot through said plurality of vertically disposed puck deflector members (fig 2). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to Claim 2: Scully discloses a framework having a top member (43), said top member having a first end and a second end, and a length; and said plurality of puck deflector members spaced apart from one another, said first ends of each of said puck deflector members attached to said top member and hanging downward therefrom toward said ice, said plurality of puck deflector members (51) causing a puck striking one of said puck deflector members at a first direction of movement to be deflected and to continue traveling toward the goal at a second direction of movement (fig 2).

As to Claim 3: Scully discloses a first and second upright members, each of said first and second upright members (27,29) having a first end and a second end and a length, said first ends of said first and second upright member supporting, respectively, said first end and said second end of said top member and first and second support members, said first and second support members having receipt means for receiving, respectively, said second end of said first upright member and said second end of said second upright member (fig 2).

As to Claim 15: Scully discloses a connection member for the second ends of the puck deflectors (fig 2, item 45,77).

Also,

Claims 1-3, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chittenden (6250635). Chittenden discloses

a plurality of vertically disposed puck deflector members (54) arrayed in a series, each of said puck deflector members having a first end and a second end, said plurality of puck deflector members disposed in front of a hockey goal for deflection of hockey

pucks shot through said plurality of vertically disposed puck deflector members (fig 1).

In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to Claim 2: Chittenden discloses a framework having a top member (50a), said top member having a first end and a second end, and a length; and said plurality of puck deflector members spaced apart from one another, said first ends of each of said puck deflector members attached to said top member and hanging downward therefrom toward said ice, said plurality of puck deflector members (54) causing a puck striking one of said puck deflector members at a first direction of movement to be deflected and to continue traveling toward the goal at a second direction of movement (fig 1).

As to Claim 3: Chittenden discloses a first and second upright members, each of said first and second upright members (48 a,b) having a first end and a second end and a length, said first ends of said first and second upright member supporting, respectively, said first end and said second end of said top member and first and second support members, said first and second support members having receipt means for receiving, respectively, said second end of said first upright member and said second end of said second upright member (fig 2).

As to Claim 15: Chittenden discloses a connecting member (fig 2, item 74).

As to Claim 17: Chittenden discloses a top member that is curved (fig 1).

Allowable Subject Matter

Claims 7 and 8 are allowed.

Response to Arguments

Applicant's arguments filed 9/16/05 have been fully considered but they are not persuasive. The inclusion of a method of use limitation does not limit the apparatus claims. If the claim language were modified to include "in combination with a hockey goal" a further review would be needed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4647016*6199833*5348291*4809988*6250635

Michael Chambers
Examiner
Art Unit 3711

September 30, 2005


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700